

b3
8. (Amended) The device of claim 5, further comprising
a housing enclosing the liquid medium.

REMARKS

The specification has been amended to correct a typographical error. Claims 1, 2, 4, 5, and 8 have been amended to more particularly point out and distinctly claim the invention, and claims 9-20 have been cancelled.

Specifically, claims 1 and 5 have been amended to specify that the cell is a B cell, a limitation supported at page 6, line 22, of the specification. Claim 5 has been further amended to specify that the optical detector is adjacent to the liquid medium, support for which can be found at Fig. 3 of the application. Claim 2 has been amended to specify that the detector covering separates the liquid medium from the detector, which is supported at page 2, lines 14-16, of the specification. Claims 4 and 8 have been amended to specify that the housing encloses the liquid medium, support for which can be found at page 2, lines 26-29, of the specification and Figs. 1 and 3 of the application.

Informal drawings for this application have been objected to. Applicant will submit formal drawings upon allowance of the present application.

Claims 1-8, 21, and 22 are now pending. Reconsideration of this application is requested in view of the following remarks.

Rejection under 35 U.S.C. § 112, First Paragraph

The pending claims have been rejected for lacking enablement commensurate with the scope of the claims. It is the Examiner's contention that the application, while enabling for B cells, is not enabling for the use of all cells in the claimed devices. Applicant does not concur that the specification enables the use of B cells but not other cells. However, for the sole purpose of obtaining early allowance, applicant has limited independent claims 1 and 5 to B cells. Therefore, the rejection should be withdrawn.

Rejections under 35 U.S.C. § 112, Second Paragraph

I

Claim 1 has been rejected as indefinite because, according to the Examiner, the structural relationships of the elements forming the device are not set forth. Contrary to the Examiner's assertion, each element and its relationship to each other element are recited as necessary for the operation of the device. The elements of the device of claim 1 are a cell, a liquid medium, and an optical detector. Claim 1 recites that the cell is immersed in the liquid medium (line 10), and that the optical detector is arranged for receiving the photon emitted from the cell (lines 12 and 13). Applicant notes that the arrangement of the optical detector can vary, depending on the specific configuration of the device (see, e.g., page 5, lines 27-32, of the specification). The only requirement for the detector is that it be arranged for receiving the photon emitted

from the cell. Thus, claim 1 is as definite as the subject matter allows. Applicant therefore requests that the rejection be withdrawn.

II

Claim 2 has been rejected as indefinite because, according to the Examiner, it does not recite how the covering relates to the elements of the device. The Examiner also alleges that it is not clear how a covering can support a medium, a point which will be discussed in a separate section below. Claim 2 has been amended to delete the "supporting the liquid medium" limitation and instead recite that the covering for the detector separates the liquid medium from the detector. Claim 2, as amended, clearly defines the relationship of the covering to the elements of the device. In addition, the amendment to claim 2 renders the other ground of rejection moot.

III

Claims 4 and 8 have been rejected as indefinite because it is unclear how the housing relates to the other elements of the device. To overcome this rejection, applicant has amended claims 4 and 8 to specify that the housing encloses the liquid medium, as is shown in Figs. 1 and 3 of the application.

IV

Claim 5 has been rejected because it is not clear how a detector can be affixed to a liquid medium. Applicant has replaced the term "affixed" with the term "adjacent" to clarify the claim and overcome the rejection.

Claim 6 has been rejected as indefinite because, according to the Examiner, "it is not clear as to how a covering can support a liquid medium when the covering is over the liquid medium" (page 4, first paragraph, of the Office Action). Applicant notes that the covering is positioned over the detector, not the medium. Consequently, the covering (e.g., a glass covering) can be used to support the liquid medium as specified in claim 6. This arrangement is illustrated in Fig. 3 of the application, which shows glass covering 14 over detector 6 and supporting liquid medium 16. Thus, claim 6 is as definite as the subject matter allows, and the rejection should be withdrawn.

CONCLUSION

Applicant submits that the claims, as amended, in the context of the above remarks have overcome all of the Examiner's rejections as set forth in the Office Action. Applicant, therefore, kindly request that the pending claims 1-8, 21, and 22 be reconsidered.

Pursuant to 37 CFR § 1.136, applicant hereby petitions that the period for response to the Office Action be extended for two months to and including July 6, 1999. A check for \$190 to cover the two-month extension fee is enclosed herewith.

Please charge any additional fees, or make any credits,
to Deposit Account No. 06-1050.

Respectfully submitted,

Date: 7-2-99

John T. Li
John T. Li
Reg. No. 44,210

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110-2804

Telephone: 617/542-5070
Facsimile: 617/542-8906
382650.B11